

A
S U R V E Y C⁺
of the County
JUDICATURES,

Commonly called the
County Court, Hundred Court,
and Court Baron.

*Wherein the nature and use of them, and the
way and order of keeping them is opened;
for the great ease and profit of all such as
have occasion to keep, or use them.*

By WILLIAM SHEPPARD Esq.

L O N D O N,

Printed by R. DANIEL, and are to be
sold by Nathaniel Ekins, at the signe
of the Gun in S. Pauls Churchyard.

1656.

TX
S 549^{su}

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*To the Reader, and all
his dear Countrymen.*

My dear Countrymen,

WHiles I think of
my day far spent,
and my night al-
most come, when my Bo-
dy must fall asleep, and
my Soul must to God my
great Master, that gave it
me, to give an account
of my Time which I
have had, and Talents

A 2

where-

To the Reader.

wherewith I have been
trusted : I am pressed to
make use of the little time
is left me to do what ser-
vice I may for you. And
calling to mind the ex-
cellent invention of our
Common Law, (* obser-
ved by an eminent Judge
of the Nation) that men
should not be troubled
for suits of small value in
the great & remote Courts
of the Nation, but that
they might be heard and
determined in the Coun-
try with small charge,
and little or no travel, or
losse

* Co. 2.
part of his
institutes,
fol. 311.

To the Reader.

losse of time, it ordained
County Indictures, the
County Courts, Hundred
Courts, and Court Barons;
where all Actions of
Debt, of the Case, Deti-
nue, Covenant, Tres-
passe, and other personall
Actions under forty
shillings, (which would
be now more then twice
so much) were to have
been heard and ended.
And (as this Iudge hath
it) it was then accounted
against the dignity and
institution of those high
Courts, to hold plea of

To the Reader.

small or trifling causes.
Ne dignitas Curiarum illarum vilesceret, & ne materiam superaret opus. And looking upon our present State, that (as it is generally conceived) a third part of the many thousand actions now depending in *Westminster Hall*, are such trifling actions, that might be ended in the Country Iudicatures, were these Courts duely regulated. So that the Law that was instituted for the quiet and defence of man, is now by
cor-

To the Reader.

corruption abused to his vexation, charge, and offence. I cannot but say woe and alas, that we are so miserably fallen and degenerated. And taking notice further that there is at this time upon the spirit of our present Authority, a deep sense of this and some other evils and pressures upon this Nation; with a resolution, as farre, and as fast as it can, to cure them, if we our selves do not obstruct it. These, and some other such like considera-

To the Reader.

tions as these, have put me on the resolution to send this rude draught amongst you: that thereby I may perhaps provoke those that are concerned, and have power in it to endeavour the regulation and reducement of this County Iudicature again to its pure and primitive institution. And that they that are employed in the keeping of these Courts, may the better know how to keep them; and they for whom they are kept, the better know

To the Reader.

know what to require of,
and expect from them
that keep them; I have
adventured to send this
little piece more amongst
you. And now if I can
but have your good will
and good word for all
this, it shall suffice to

Your dear Countryman

W. S.

CHAP.

108. R. 108.

And now I have
and expect from them
and keep them; I have
admitted to land this
in the place more amongst
you. And now I can
give you good will
and good word for all
the rest of the world

Wm. 2. 108.

W. 2.

CHAP.



CHAP. I.

Of the County Court.

THe County Court is a Court, not of Record, incident to the Sheriffs office, for the hearing and determining of petty matters between party and party within the County; wherein the Sheriff is onely a Register or Recorder and the Freeholders of the County are Judges. The stile of this Court is GLOUC. The first Court of E. G. Esquire Sheriff of the County aforesaid held at Gloucester.

Of the

*cester the first day of May, 1655.
And the next Court, The second Court, &c.*

SECT. I.

Of the nature of this Court.

The Sher-
riffs of-
fice.

THe office of the Sheriff hath this Court incident and belonging to it; and not to be severed nor granted away from it. Nay the Lord Protector by his Letters patents cannot grant away the office of the Clark of the County Court, nor the fees &c. thereto belonging; and if whilst the office or place of the Sheriff remains void, the Lord Protector (by his Letters Patents under the Great Seal) shall grant away the said office of the Clark
of

County Court.

of the County, (or Shire Clark
of the County) or shall appoint
any to occupy or use the same,
yet when the Lord Protector
shall afterwards make one She-
riff, he shall avoid that grant: for
that the County Court, and the
entring of all the proceedings
therein are incident to the office
of the Sheriff; & the Sheriff is to
appoint such Clarks under him
in his County Court, for whom
he will answer at his perill.

Seēt. II.

*Of the time of keeping this
Court.*

THese County Courts must
be holden and kept from
moneth to moneth: and must
be no longer deferred, but one
moneth

Of the

moneth from Court to Court,
and so these Courts are to be
kept every moneth, upon a day
certain, and no otherwise: and
the moneths to be reckoned by
eight and twenty dayes and not
by the Kalender; and so with-
in the twelve Shires of Wales,
their Sheriffs must keep their
Counties monethly.

The rea-
son of the
keeping
this Court
monthly.

The necessity of keeping this
Court every moneth and upon
a day certain, is by reason of the
Lord Protectors writs of *Exi-*
gents which must be read there.

Sect. III.

*Of the place of keeping this
Court.*

AS to the place wherein
these Courts are to be
kept

kept these things are to be known.

First, The Sheriff of Northumberland (by the statute made Anno 2. Ed. 6. Chapter 25.) is to keep the County Court of that Shire in the Town or Castle of Alnwick, and in none other place.

Secondly, The Sheriff of Suffex (by the statute made Anno 19. Hen. 7. chap. 24.) is to keep and hold the Shire Court for that Shire, one time at Chichester, and the other time at the Borough of Lewes, and so to be kept by turn for ever: and every Shire Court holden there to the contrary, and all things done therein shall be void.

Thirdly, The Sheriff of the County of Chester, is to keep his Shire Court in the Shire-hall

hall of the said County.

Sheriffs

of Wales.

and

Fourthly, The Sheriffs Shire Courts in Wales of the County of Brecknock, shall be holden at Brecknock; of Radnor, at new Radnor and Prestene; of Montgomery at Montgomery, and Maghenleth; of Denby, at Wrixham; and of Monmouth at Monmouth, and Newport; by turn, one after another.

Fifthly, For the County of Glouc. it may be kept in the city of Glouc. This Court may be kept in other Counties, in any place of the County where-soever the Sheriff and Freeholders please.

Se&t. III.

Of the Judges of this Court.

AS to the Judges of these Courts; these things are to be known. First,

7

**Freehold-
ers or sui-
tors to be
Judges.**

**Action of
the Case
against
the Sher-
riff.
False
Judge-
ment.**

Secondly, There must be two Freeholders at the least, or else the Court cannot be held.

Thirdly, In some speciall writ, (now out of use) the Sheriffs Judge there,

Affering. Fourthly, If the Freeholders do not appear, they may be amerced, the amercement assessed, extorted and levied, but it must be done by two Freeholders at the least, and may not be done by the Sheriffs without Freeholders.

Sect. V.

Of the Power and Proceedings of this Court in General.

THe power in General of this Court is either *ex officio*, and of it self, or by commission

sion called a *Iustices*; and in *Iustices*. both cases the Freeholders, not the Sheriffs, are Judges of this Court: and they may by their own authority hold plea of, hear and determine all lesser actions; as actions of debt, trespassse, covenant, detinue, account, and the like; and in cases of Replevin, where the debt or damage is not forty shillings, or upwards, and no freehold is in question, and by a *Iustices* they may hold plea of, hear and determine, all actions of what value soever; and notwithstanding the freehold itself being in question. And this not onely between persons and parties living within the County where the defendant lives, but also between persons living elsewhere out of the

County; for any cause or contract ensuing within the County, or any transitory things.

In all which cases their proceeding is much after the example of the higher Courts; by entring of Plaints by the plaintiff himself, or his Attorney, putting in of pledges, filing declarations. And if the Defendant appear not by proceſſe of ſummons, attachment, and diſtreſſe, upon attachment infinite, till he do appear; which when he doth, he is to plead, and ſo to the triall of the cauſe: which is commonly by wager of law, but by conſent of the parties it may be by Jury: as it may be alſo where the uſe of the Court is ſo. And if judgement be given againſt the defendant, the execution is by diſtreſſe,

distresse, a warrant is sent from the Judges to the Bailiff to seise the defendants goods , put them in pound , or sell them, and bring the money in Court for the Plaintiff, as the custome and course of the Court is. And if the Court give judgement, or do any thing contrary to Law, the party grieved thereby must have his remedy by a writ of false judgement. And Executors and Administrators may sue and be sued here, as in other Courts.

But we shall open these things more particularly in the things that follow.

Sect. VI.

Of a Iusticies,

A *Iusticies* is a writ in the nature of a commission, directed to the Sheriff for the dispatch of justice in his County Court, in some especiall cases, wherein of his own authority he cannot deal. And as to this part these things are to be known.

First, That albeit the writ doth lie in divers cases, yet at this day it is very rarely used in any case, but in an action of debt, or some such like action, of, or above forty shillings; in which case, the Sheriff hath not power in this Court without this commission.

Se-

Secondly, That albeit the writ be directed to the Sheriff, yet are the Suitors the Judges, and their proceedings alike in this as in other actions. And yet in this it is a County record; and so it is not in the proceedings of all the rest.

Thirdly, The Sheriff upon this writ may not make a precept to a Bayliff of a Franchise to have his cognizance of the cause; nor may any other but the Sheriff and the high Sheriff (as it is held) himself hold plea upon this writ.

Fourthly, A suit here upon this writ is removeable, as another suit is, that is without it. Remove.

Fifthly, The Sheriff is not bound to make any return of this writ.

Sect. VII.

Of an Attorney and Pledges.

Attornes

pledges.

ANy man may make a generall Attorney to sue for, or against him in all pleas in this Court. And for pledges which are such as do undertake for the Plaint, that they should prosecute the suit, and stand to the judgement of the Court, there ought to be such in this, as in other Courts, of sufficient men of the county: but this it seems is out of use, and not necessary at this day.

Sect. VIII.

Of a Plaint.

THe Plaint is the first entry of the persons *to* and
cause

cause of the action in the Court, upon which all the rest of the proceedings are grounded, and is thus : A. B. complains of C. D. in a plea of debt of ten shillings, and so as the case is. And as to this, these things are to be known.

First. No Plaint ought to be entred (except in case of Replevins) out of Court, but in full County, and sitting of the Court. And yet the course is otherwise, and (as it seems) good enough.

Secondly. The Sheriff or his County Clark, or any other, by either of their commandments, or in their names, may not enter any plaint in any mans name, unlesse the Plaintiff be present in Court, in person, or else by his Attorney or deputy,
and

Remove.

and yet this it seems is good enough, though otherwise entred, but for this cause, it may be removed, if it be set forth and moved in another Court.

Thirdly, Nor may any man enter a plaint in the name of a dead man, of purpose to get money of the Defendant.

Fourthly, Nor may any of the Officers of the Court enter or cause to be entred, any more plaints then the plaintiffe hath cause, and desireth against the defendant.

Fifthly, There must be but one plaint for one contract, trespassse, or cause.

Prohibition.

Sixthly, The plaint that is for trespassse, may not be *vi & armis*: for then a prohibition may be had to stay the suit, but leaving out these words, it may be

be brought there for a trespassse,

Seventhly, No plaint can be heard in this Court for charters touching Inheritance or Freehold.

Eighthly, No plaint or suit can be entred here for debt, or damages to forty shillings or upwards, &c. unlesse it be upon a Justicies. But under forty shillings it may be for any action of debt, either upon an account made by the parties, or upon an especiallity, or for wages after a hire, or upon a lending, or upon an arbitrement, or the like: and for a detinue, and for actions of the case upon a delivery, or upon a warranty, or upon a Misfeasans, or upon a Nonfeasans, Nusans, or the like.

Ninthly, And upon a Replevin. Replevin.
vin for damage fesant, amearcement,
ment,

**Demur-
rer.**

**Prohibi-
tion.**

ment, rent, or the like: and upon all actions of trespass; for breaking of a house, taking away goods, or the like. And if the debt or damage be forty shillings, or upwards, the defendant may demurre to the jurisdiction of the Court, or have a prohibition. And yet it is a question whether these Courts may not hold plea so much now, as forty shillings was then, which is about six pound, but it is not safe to adventure. And it is held clear, That if the declaration be laid for, or above forty shillings, albeit the jury find the damage under forty shillings, this will not help.

Tenthly, If the debt be above forty shillings, as for example, twenty pound, the
Plaint-

Plaintiff cannot divide this into twenty severall actions to make this Court hold plea of it. for in this case the defendant may wage his law with good conscience, or have a Prohibition.

Eleventhly, But if the debt be above forty shillings, and the plaintiff will acknowledge in his plaint the receipt of so much as to bring it within forty shillings, in this case perhaps the plaint may be good. This plaint must be continued from Court to Court, or else may be dismissed, and the Plaintiff will be forced to begin again.

Twelfthly, If the Sheriff or any of his officers shall procure others to enter plaints or suits in this Court against other men, they may be punished for

it by a special Act of Parliament.

SECT. IX.

Of the Proceſſe of the Court.

Proceſſe.

THE Proceſſe of the Court is the precepts that iſſue out in the actions, and theſe are either originall, which are ſuch as iſſue out before judgement; or judicially, ſuch as iſſue out after judgement. Thoſe which we call originall, are the ſummons, and the attachment, and diſtreſſe, both which (upon the matter are all one.) The *venire facias*, the *Alia* and *Plures*, and *distringas* of diſtreſſe.

Summons

The ſummons is a warrant to an officer, to warn the defendant in the action to appear to it. And is after this form.

The

The Bailiff of the hundred of S. is commanded to summon C. D. that he be here at the next Court, to answer A. B. in a plea of debt, (or in a plea of trespassse, or in a plea of detinue, as the case is,) or more largely after this form.

R. S. Esquire, Sheriff of Glou.
the County aforesaid, to
the Bailiff of the Hun-
dred of W. greeting. For-
asmuch as A. B. at my
County Court held for
the County aforesaid,
com-

complains against C. D.
in a plea of debt of thirty shillings, (or in a plea
of trespassse, as the cause
is,) and hath found pledges
to prosecute, &c.
These are therefore to require
that you summon the said C. D.
that he be here at the next Court;
to answer the said A. B.
in the foresaid Plea: and
that you have there this
warrant, and shew how
you have executed it.
Dated the eighth day of
August, 1655.

At-

Attachment is the second degree of Proces, and issueth out where the defendant commeth not in upon the Summons; and this is to take the defendants goods, and keep them, to the end he may appear; and is made Briefely after this forme. It is commanded the Baylife of the hundred of S. That he attach C.D. by all his goods and chattels to the end that he may be at the next Court to answer A. B. in a plea of debt, &c. or more largely as before in the other.

And in this case, the Sheriffe may choose to take away the goods, or leave them with the defendant, (which he will,) and if the defendant appear not, by this at the day of the returne of the Attachment he shall forfeit them, but the property thereof

C by

by the taking is not out of him, till he hath made default, so that if he appear or be essoyned, the goods are not to be forfeit.

Distresse.

The distresse is the third degree of Proses, or a third Proses, and it is a warrant to the Bayliff to destrayne the defendant by his goods and chattels, to the end that he may be at the next Court to answer A. B. (as the cause is) or largely as before. And the *alias* and *pluries* doth not differ from these but hath these words added. It is commanded the Bayliff, &c. as an *alias* (or as a *pluries*) the *venire facias* is a precept to summon a Jury to appear to try the case; and it is after this forme. It is commanded the Bayliff, &c. or

To

To the Bayliff of the hundred
of S.

These are to requyre you the
said Bayliff, to cause to come,
twelve good and lawfull men
of your Bayliwicke that they
be here at the next Court to try
an issue joyned between A. B.
Plaintiff, and C. D. defendant,
touching a plea of debt (or as
the case is) and if the full Jury
do not appear, then as many as
make default and be not es- Amerce-
ment.
soyned shall be amerced.

And a *Decem Tales* awarded
to summon ten more, and the
same day given to the first Jury
after this forme. It is com-
manded, &c. That he cause to
come tenne such good and
Lawfull men of his Bayliwicke,
&c. as in the last. At which day

as many as make default and be not essoyned shall be amerced and then an *Octo tales*. And after that if needs be a *Sex tales*. Till a full jury appear.

Execu-
tion.

The judiciall Proces in this Court, is only the *Levari factas* which is a precept to the Bayliff to levie the debt or damage recovered, and the costs of suits, of the goods and chattels of the defendant, and is after this forme.

It is commanded to the Bayliff of S. That he cause to be levied of the goods and cattels of C.D. twenty shillings which A. B. hath recovered against him in this Court
in

in a plea of debt, for a
plea of trespassse as the
case is) and for his costs
and expence in the suit
twelve pence. And that
he have the same mony
at the next Court, or thus
largely.

R. S. Esq. Sheriff of the ^{Glouc.}
said County whereas A.
B. at my County Court
held for the said County
hath recovered against C.
D. twenty shillings in a
plaint of debt and twelve
pence for his costs of suit,
whereof the said C. D. is
in the same Court con-

vic by the judgement of
the Court.

These are therefore to
command you according
to the custome of the said
Court, the said twenty
shillings adjudged by the
said Court and the said
twelve pence for costs
that you cause to be le-
vied, and that you have
the same mony at the
next Court to answer the
same to the said A.B. and
that you have there also
this precept, &c. And
this precept is given
where the defendant is
con-

condemned by default,
 verdict, or otherwise, to
 levie the debt or dama-
 ges of the goods of the de-
 fendant, which being ta-
 ken are to be prised and
 sould to satisfie the Plain-
 tiff: but the goods in this
 case may not be deliver-
 ed over to the Plaintiff
 himself;

And as to all these Proccesse Officers.
 and the execution thereof these
 things are to be known.

First, that the Bailiffs or o-
 ther officers of the Court upon
 these Proccesse or precepts must
 take care duly to execute
 them; and to make return

what they doe upon them.

Secondly, they may upon these Proceſſe, take any mans goods or cattell in any place in the County upon his own or another mans ground.

Thirdly, they may enter into any house or cloſe, if the door be open, to do execution of the goods of the partie the goods being there.

Amerce-
ment.

Fourthly, if any default be in the Bailiff, or other officer, in the execution of his precept, or making return of it when it is executed, or the like, he may be amerced for it by the Court. And in ſome caſes the partie grieved by it may have his action of the caſe againſt him.

Attach-
ment.

Fifthly, the goods they ſeize or take muſt be reaſonable and not exceſſive.

Sixth-

Sixthly, after Processe by Attachments or distresses, once granted the Sheriff *ex officio* may grant new Processe of the same nature. And so after judgement entred he may grant out execution of course, if the Court do not stay it. But otherwise these officers are not to doe any thing without the Benchers, except in case of necessity, as granting of *Replevin*; this is done of course.

Or distresses.

Replevin.

Sect. 5

Sect. X.

*Of the proceedings from the
time of the defendants
being summoned, or at-
tached, to the end of the
Suit.*

THe proceedings in these
cases is much after the
fashion of the proceedings in
the higher Courts, as in these
particulars that follow.

Essoyne.

First, when the defendant is
to come in, sometimes he may
be excused by an Essoyne; for
the defendant when he cannot
appear at the time appointed
by the Court; for reasonable
cause, he shall have a further
day, and his default shall be sa-
ved,

ved, and as to this effoyne these things are to be known.

1. That the ordinary causes for which this is allowed are.

1. That either the defendant is in the service of the Lord Protector, or is beyond the sea, or is sick, or the water is so high that he cannot come, or the like.

2. He that casteth an effoyne ought to come at the beginning of the Court, when Proclamation is made.

3. If one be effoyned one Court the other may be effoyned the next Court.

4. No effoyne is to be allowed by either partie without cause shewed, which may be without oath.

5. No effoyne is to be allowed

lowed in these cases following.

1. Where the partie himself is seen in Court.

2. Where the partie hath an attorney in the same plea present in Court.

3. Where the partie made default at the last Court before.

4. Where the partie doth come in by distresse.

Declara-
tion.

Secondly, where the defendant doth appear the Plaintiff must see his Declaration be filed, or the Plaintiff may be nonsuit otherwise, unlesse the Court give further day to him: also he must see to it that it be made perfect or the defendant may demurre to it, and put the Plaintiff to make a new Declaration, and yet before the defendant have answered the Plaintiff may by order of the Court

Demur-
rer.

Amend-
ment.

Court have any thing amended
that is amisse in the Declara-
tion.

Thirdly, the defendant when he appears and the Declaration is filed, shall of course have an *Imparlance* for one Court, (that is) upon his desire he shall have further day given him to answer till the next Court, and this by order of the Court, or agreement of the parties may be again continued to another Court.

Fourthly, continuances must be made of cases in this Court from Court to Court, as they are in the Courts at Westminster from terme to terme, to keep the suits in being.

Fifthly, the defendant after a perfect Declaration put in, must give his answer or plead to it, and

and for this, these things are to be known.

1. He must plead in the time appointed by the rules of the Court, otherwise judgement will be given against him for his default, by *nihil dicit* 1. because he saith nothing.

2. His plea must be legal, full and perfect; or else it will be to the advantage of the Plaintiff, for a bad or insufficient plea is in Law as no plea.

Sixthly, the ordinary pleas here to action of debt are as in the Courts at Westminster: (as the case is;) as for example if the suit be on a deed. It is not his deed; that it was made by threatening or imprisonment. That he tendred the money at the day, and is still ready to pay it.

it. A release or acquittance by deed, and such like.

Or if it be on a Contract without a deed, payment, or obligation made for the debt, an arbitrement, &c.

That he doth not owe the money, and such like. And if the suit be against an executor, or administrator, the ordinary plea is, that he was never executor, or that he hath fully administered, or the like. Or if the suit be grounded on a deed, or on a Contract without a deed, that he was within age when he did make the deed or Contract, or if it be against a woman, that she was covert (i. e.) had a husband when she made the deed or Contract or such like.

If the suit be grounded on an arbitrement, that there was

no

no arbitrement Legally made;
or that he hath performed the
award.

If it be on a Replevin for
trespasse by damage fecant; that
the beasts came in by the de-
fault of the inclosure of the
Plaintiff; or that he hath title
of common there, or the like.

And if it be on a distresse for
rent; That there is no rent be-
hind, or the like.

If it be on an action of de-
tinue the ordinary pleas are.
That he doth not deteine the
thing sued for, a release, or a
guist to him by the Plaintiff of
the thing sued for; or that he
did tender the thing sued for
before the action brought, or
that he is ready to deliver the
thing, and hath brought it in
Court; or that the Plaintiff did
deli-

deliver it to him as a pledge for twenty shillings, which he hath not paid; or that the thing sued for was delivered to him by the Plaintiff and another, and not by the Plaintiff alone. And such like.

Or if it be an Action of the Case upon an assumpsit, the ordinary pleas are, that he did not so assume, or that he is not guilty, a concord performed, or the like.

Or if it be in an other Action of the Case, the ordinary plea is not guilty: and if it be on a Warranty, that he did not warrant, &c.

And if it be in an Action of trespass, the ordinary plea is not guilty: also in this case an abatement, or concord with execution, tender of amends,

D

be-

before the action brought, may be pleaded.

And in all these actions, special pleas may also be pleaded (as the case is.)

Freehold
or forrein
plea.

But if the defendant plead his freehold, or forrein plea not triable there; the Court can no further proceed, and if it doth, the other partie may have a writ of false judgement, to avoid the judgement when it is given.

False
judgement.

But in all these cases, the defendant may if he will, refuse to plead any such plea, and confesse the action; or let judgement go by, *Non sum informatus*, defaults; by the saying of his attorney that he is not informed.

Triall.
Issue.

But upon these pleas, the Plaintiff in most cases, may take issue, and put it to a Jury, which is

is thereupon warned: whereby the Court of any of these Courts, Trialls are by Juries, to appear to try it. And these appearing, the parties are to have their Challenges, as in other Courts. Or by consent of parties, it seems it may be tryed by Jury in any case. By Jury.
Chal-
lenge.

And upon some of these pleas, pleaded by the defendant, where wager of Law doth lye, as upon an action of debt brought upon a contract by word without writing, or detinue, he may offer to wage his Law, and may have it for the triall, and cannot be put upon another way of triall. And this is the proper and ordinary way of triall, appointed by Law in all actions in this Court. And where this is admitted, the

Wager of
Law.

Court doth appoint the defendant to do it at the next Court, and set down with how many hands, or other men witnesses, he shall wage his Law, which is taken by the judges of the Court, who do examine the defendant and his witnesses, on oath: and the Plaintiff also, if they think fit.

By witnesses.

Or the defendant (if he will) may deny the debt, where it is without a deed, and put it on the Plaintiff's proof, and then he must prove it by witnesses at the next Court, if it be so ordered, and if he do then make default herein, he is to be nonsuit. So if the Plaintiff in person be in Court, (where the jury is ready to appear, or give their verdict) and renounce his suit or withdraw his action, & saith he

Non suit.

he will follow it no more; or when the parties have demurred in judgement, and have a day given over, and at the day the Plaintiff do not appear, but make default, in these cases *Non suit.* the Plaintiff shall be nonsuit; and judgement shall be given against him for costs of suit. Which shall be levied in the same manner as money recovered against a defendant is levied.

And in all these cases, if the Judges where it is to be judged by them alone, or the Judge & Jury (where there is a Jury) shall find for the Plaintiff, they must give judgement for the debt, or damage and costs of suit, as the *Judge-ment.* case is; and if they find for the avowant in a Replevin, they *Costs.* must give damage and costs of suit:

suit : or otherwise , if it go against the Plaintiff, or he be nonsuit for not proceeding ; judgement must go against him , for such costs of suit for vexation : So that as the Court shall adjudge , if the defendant be condemned by default or verdict , a levarie is to go forth to levie the debt or damage , and costs of suit ; and so if costs be recovered against the Plaintiff , and hereupon execution shall be done accordingly by a *Levare facias*, or warrant appointed to leavie the mony. And upon this, the Sheriffs officers, or servants appointed, are to levie so much of the goods of the Plaintiff or defendant , the which they are to take , prise , and sell , and therewith pay the party that doth recover his money,

money, and the costs of suit, and give back the overplus. But neither can the under officers, nor the Sheriff, nor the Court, deliver over, or cause to be delivered over the goods distrayned, to the party that is to have the money.

Sect. XI.

Of a suit by Replevin, and the proceedings therein, from the beginning to the end of it.

A Replevin is where one What a Replevin is. man distraineth anothers goods or cattell: then the partie that is distrained, upon giving security to the Sheriff, or his depulie, that he will pursue the
D 4 action,

action, and return the beasts again; if the taking shall be adjudged Lawfull; may have this by writ to the Sheriff, or the Sheriff may do it *ex officio*: or if it be within a franchise, the Sheriff may send his warrant to the Bayliff of the franchise; and hereby he shall have the goods or catrels restored again. As touching this, these things are to be known.

Speciall
property.

First, that he that brings this writ must have either a generall or a speciall property in the thing; as of goods pledged, or the like; and this must be in him at the time of the taking, or otherwise he cannot have, or not maintain the Replevin for them.

Secondly, if divers mens cattell be taken they may not joyn

joyn in a Replevin, but must have severall Replevins.

Thirdly, this is grantable in hundred Courts and Courts Barons also.

Fourthly, the Sheriff is bound to have four deputies in the County, to make these Replevins; and the Sheriff upon complaint of goods or cattel taken and wrongfully withheld, may send his warrant by word or writing (if it be out of a liberty) to whom he pleaseth to deliver them; and if it be in a franchise, he must first send to the Bayliff of the franchise, to do it, which if he will not do, the Sheriff himself at the last may do it.

Fifthly, this the Sheriff doth and may do, either *ex officio* by virtue of his office; and of his own authority; or by a writ sent to

to him out of another Court
to give him command so to
do.

Sixthly, the party that sueth
it out (be it with or without a
writ) must first before he can
have it; or the distresses be deli-
vered; enter his plaint in the
Court, of the which to the end
that deliverance may be made
presently by a Replevin, before
a Court day he may enter at any
time out of Court for the
taking of the things; and give a
band of forty pound at the least
to prosecute the suit; and make
return of the goods, if return be
awarded by the Court; and if
the Sheriff do otherwise, the
party grieved may have an
action of the case against
him, and recover his damage
by it.

Action of
the case.

Se-

Seventhly, if the things distrayned, be put by him that did distrayn them, in a place where the Sheriff cannot come at them to make a Replevin, as a Castle, or the like, he may take the power of the County, and after demand, beat down the Castle to take them, and the owner of the goods shall recover double for his losse, what ever it be. And if the goods be put in a Castle, or driven into another County, or other place where he cannot deliver them upon the Replevin, or *Retorno Habendo*; he may grant a precept in the nature of a *Withernam*, to whom he will, to take the parties own goods. Or if the Sheriff command the Bayliff of the franchise to make deliverance, and he return that

he

he cannot come at them; the Sheriff at the next County Court may enquire of it by inquest of office; and if he find it true, he may of his own authority grant a precept in the nature of a *W. ubi nam* to the Bayliff to take the parties own goods. The which goods the Sheriff or Bayliff may either keep, or deliver to the Plaintiff to keep, at his choice. But the defendant is to pay for the keeping of them, before he have them again.

And if the Sheriff coming to make a Replevin, and the party that hath the distresse, claime propriety in the goods for himself, or for himself and another, of his Master; the Sheriff cannot proceed till this question be de-

decided by a Proprietate Pro-
banda. *Propri-
tate pro-
banda.*

Which is a writ lying where
the Sheriff is coming to make a
Replevin by writ, or without,
before or after *Gager de deliv-
rance*; and the party that hath
the goods, and distrayneth
them, claymeth them for him-
self, or his Master for whom he
distrayned, as their own; then
the Sheriff can proceed no fur-
ther in the Replevin, untill the
Playntiff have sued out this
writ, which if the writ were had
out of the upper Bench, or
common pleas, may be had
thence; else out of the Chan-
cery, and thereby the Sheriff may
try the property, and if he have
no property that pretended it,
then the Sheriff may go on in
the Replevin.

If

If he had, he must surcease;
 for in all cases of Replevin, the
 Plaintiff ought to have the ge-
 nerall or speciall property of the
 goods, at the time of the ta-
 king. For a Replevin lyeth up-
 on either property. It is there-
 fore a good plea in a Replevin,
 that the property is to the
 Plaintiff and a stranger; but
 this finding of the Sheriff by this
 writ, is but an inquest of office;
 and therefore if it be thereby
 found against the Plaintiff, yet
 may he have a writ of Reple-
 vin to the Sheriff, and if he re-
 tain the clayme of property,
 yet shall it proceed in the
 Court of common pleas, where
 the property shall be put in is-
 sue and finally tried. *reg. orig. on*
ni. But a man cannot clayme
 property by his Bayliff or ser-
 vant;

vant; because if it be found against him, he shall be fined that so doth; which the Lord cannot be, unless he clayme himself.

Eighthly, this suit, after it is once brought into the Court, and the defendant, which is the party that took the distresse, doth appear, is to be determined in this Court. But according to the plea ministred by that party, it becomes reall or personall.

For where there is property claymed, it is personall. But if the defendant justifie the taking, as in his freehold, or for services, or rent behind, or the defendant avow for damage feasant, and the Playntiff justifie by reason of common of pasture, then it is reall. And then there

there can be no further proceeding there except it be upon a justities, but the case must be removed by a writ of *replevin*, which must be read and allowed in the Court; That the Plaintiff in the Replevin may have notice of the Court wherein it is removed; and of the day, that he do then appear, and declare there against the taker, or else he will have a *respondeat*.

And then is the defendant to make his *Avowrie*, and set forth by what right, or for what cause, he took the cattels.

Avowrie. Tenthly, for an *Avowrie* is where one doth estrayne another for tennent, or other cause, and the party estrayned sueth a *Replevin*, against the taker, then he must justify and avow in

In his plea, the lawfull taking of them : and shew why he took them, whether in his own right, or a servant, or Bayliff to another. And upon this, the Plaintiff doth usually joine issue; and so they go to tryall commonly by a jury.

Eleventhly, if after the Replevin brought, the Plaintiff (whose goods be taken) do make default, or be non suited, before declaration, or the like, or judgement be given against him; he that distrayned the beasts shall have them delivered to him again by the writ of *Returno habendo*.

*Returno
habendo.*

And this writ must have this clause inserted in it. That the Sheriff shall not deliver the goods without writ, wherein mention shall be made of the judgement. E And

Second
delive-
rance.

And hereupon the Plaintiff if he will may have a judiciall writ to the Sheriff, to deliver the beast to him.

Twelfthly, where a plaint is removed out of the County Court, or Court Baron by *habeas corpus* or *Recordare*, into the common Bench, and after the Plaintiff in the Replevin is nonsuited before any Avowrie made; notwithstanding this nonsuit, the party that distrayned, may have again the same distress, and no other by this writ, which is only to revive the first suit, and the defendant cannot have a recaption in this case, for a double distress. And this is called second deliverance, after which had, and tryall thereupon, or that the Plaintiff be again nonsuited before declaration. Re-
with

being repleviable, shall be awarded to the avowant, & then he may make his attorney to the intent to ground a writ to enquire of damages, or he may hold the beasts as a distresse, till he be satisfied, and if any return *no habendo* go forth before this writ, this is a *super sedas* to it; and the Sheriff may not meddle upon it.

Return irrepleviable.

If after one return awarded, a return shall be another time awarded, there shall be no more Replevins granted. And if upon this default the second time, or otherwise the defendant be adjudged to have a new return, the distresse shall remain

Return irrepleviable.

Irrepleviable. Where one hath sued a Replevin, and yet hath not the goods delivered, and the other

Gager de delivrance.

avoweth; now he may shew
 this in pleading that the defen-
 dant is still possessed of the
 goods; & pray that he may put
 in pledges for the deliverance;
 which when they come to is-
 sue, or demurrer shall be grante-
 ed him, or after avowrie, if the
 defendant do not clayme prop-
 erty in them, and then a writ
 shall go to the Sheriff to deliver
 them; but where the avowant
 doth clayme propriety in them
 this is not grantable.
 It is a writ lying where a man
 is distrayned for any services;
 and having that suit, he is di-
 strayned again for the same
 cause though the distress be for
 service due, after the first di-
 stress; yet it lyeth not till the
 first suit be determined.

Recap-
 tion.

Sc-

Sec. XII.

*Of costs of suits recoverable
in this Court.*

AS to the costs of suits recoverable in this Court. These things are to be known.

First, in all suits whether judgement be given for Plaintiff or defendant, such reasonable costs of suit are to be given as the Court shall set down.

Secondly, where the Plaintiff doth not pro-

E 3 ceed,

ceed, or the cause doth
go against him upon the
triall, the Court must
give the defendant reason-
able costs for the unjust
vexation.

Thirdly, such remedy
and execution shall be
made for recovering of
these costs, as the Plain-
tiff hath for recovering
of the costs he doth re-
cover in that Court, a-
gainst the defendant.

Se-

Sect. XIII.

Of Amercements in this
County and the officers
thereof.

AND to this, these
things are to be
known. The Court may a-
merce any man, for any
contempt or disturbance
of the Court, made in the
presence of the Court;
for in what case a man
may be fined in a Last, he
may be amerced here, and
this it seems need not be

affered, as all others, but
it is safe to do it.

And when any officer
doth commit any default,
or neglect in the execu-
tion of his office ; and
when the Plaintiff is non-
sunt; *Quia non est prosecutus.*
Because he hath not pro-
secuted, either at the first
or after, when the Jury is
ready to give verdict ; or
the Court give judge-
ment, or *pro falso clamore.*
And when judgement is
given against the defen-
dant he may be amerced.
And when any Benchers
Juror

Juror, Plaintiff or defendant doth make default, he may be amerced: so also every man for his default of appearance after summons may be amerced. But all these ameracements upon officers for their miscarriage must be *Affere-*
affered by the Benchers; *ment.*
the rest by them or some others otherwise they may not be extreated, & *Extreats.*
they may be levied by distresse, and putting in pound; not by sale without a speciall custome in it; and being levied shall
go

go to the use of the Sheriff. And the Sheriff must see that he leaue none of these amercements, untill they be first allowed by two Iustices of the Peace.

Sec. XIV.

Of removing of suits out of this Court.

Suits may be removed out of this into a higher Court. And this is to be done either by a *recordare*, or by a *pone*. And therefore the *recordare* is said to be a writ out of the upper Bench, or common pleas, directed to the Sheriff, commanding

Recordare.

manding him to send a plaint
that is before him without writ
in his County Court into that
Court, from whence the *recorde*
is sent, to the end that the
case may be there determined.
And this the Sheriff must certi-
fie under his seal, and the seal of
four of the Suitors of the same
Court, and he is to summon
the other party to be in that
Court whether the plaint is to
be sent by a day; and a *pone* doth *Pone.*
nothing differ from this, but
that that is to remove such suits
as are there before the Sheriff
by writ and not by plaint, and
as to this, these things are to be
known. 1. That if these be
sued out by the Plaintiff in the
County Court, it may be had
without shewing any cause at
all, if it be had by the defen-
dants

dants suit, he must shew cause.

As first being to remove a plea in a replevin by plaint, to shew that the defendant avoweth for damage feasant, and the Plaintiff doth justify for common of pasture, which is a plea touching freehold, and therefore should not be without writ. Or that he before whom the writ depends is a favorer of him that is of the other side.

Secondly, if any officer of the Court proceed after the removeall, he may be punished for it in the Court from whence the writ to remove it came, for the suit in Law is now at an end in the inferior Court.

Thirdly, and after it is once sent away, it can never be sent back again, but must be tried in the Court into which it is sent.

Fourth-

Fourthly, a suit is sometimes removed out of this Court into a higher Court by a writ of false judgement. False judgement.

And this writ is defined to be where an erroneous judgement is given in any inferior Court, that is not a Court of record, as County, Hundred, or Court Baron, then the partie grieved by the judgement may have this writ, and remove the whole Proces of the suit into the common pleas, and there it shall be examined, and if it be found, the judgement shall be reversed, and the Suitors or Judges of the Court that gave the judgement, amerced. Jurors amerced.

Sec.

Sect. XV.

*Of the Power and duty of
the officers of the Court.*

As touching the power and
duty of the officers and
those that act under this Court,
these things are to be known.

First, the Sheriff may, if he
will, appoint special Bailiffs
that is, others besides the com-
mon Bailiffs to execute the pro-
cesses of the Court.

Secondly, some say a war-
rant from the Court by word
may be good in these cases, but
it is not safe to trust to such a
warrant, but to have it in
writing.

Thirdly, the officers that
have

have any precept to execute, must do it with all care, and when done or not done, give an account and make a return of it, especially if they take goods in execution; otherwise it is dangerous; for perhaps by the not return, the Act of the officer may become unlawfull.

Fourthly, in taking of goods they must be reasonable.

Fifthly, they may enter into a close, or into any house of any other mans (the door being open) to take the goods of any man there upon any precept.

Sixthly, they may take the goods of any man in any place within the County, in another mans house or ground as well as in his own.

Seventhly, they are to take
upon

upon execution so much of the goods as will satisfy the execution, and bring them into the next Court where they must be prized.

Eighthly, they are not to proceed in any case after it is removed into another Court.

Ninthly, if the Sheriff or any of his officers shall procure others to commence suits against any person, and shall cause them to resort to this Court. The party attached upon any such suit may relieve his distresse so taken, and remove the suit before the Justices, &c. Before whom if the Sheriff be convicted of such procurement, he shall be amerced grievously to the Lord Protector, and shall answer to the partie grieved treble damages.

Remove.

Amercement.

Tenth-

Tenthly, the Sheriff (his Shire Clerk or deputies) shall make no estreats to leavy the said Sheriffs amercements (or Shire amercements untill two Justices of the peace (one of the Quorum) have had the oversight of their Books, and that the estreats be indented between the Justices of the Peace and the Sheriff. Estreats.

Eleventhly, the Officers, that leavie these estreats, ought to be sworn before the Iustices that they will leavie no more then is upon the estreats.

Sect. XVI.

Of the Fees of this Court.

The Fees.

THE Fees of this Court are such as time out of mind have been used to be paid and received in the Court. And these happily are in some places more, in some places lesse. But in some of these Courts where they are reasonable, they are as followeth.

*A Table of all such Fees as
are due and payable in
the County Court.*

Fees due to the Court.

For every judgement

iiij^d

For

For every Attachment
fugitive *ij^d*

For a judgement on a ju-
stices *i^d*

Fees due to the Stevvard.

For entring of an Action
and warrant for the
summons *iiij^d*

For an ordinary Attach-
ment *vj^d*

For an ordinary distrin-
gas *vj^d*

For filing of a Declara-
tion *iiij^d*

For filing a Declaration
on a Replevin *xij^d*

For an aparance *iiij^d*

For every plea	iiij ^d
For every rule or order of Court	iiij ^d
For a venire facias	ij ^s
For a warrant for witnesses for every name	vj ^d
For every witnesse sworn	ij ^d
for every judgement	iiij ^d
for every levare facias or execution	xij ^d
for a copy of the Declaration	iiij ^d
for allowance of a justices	ij ^s vj ^d
for every warrant upon it	ij ^s vi ^d
for every Attachment fugitive	

gitive if it be against one
onely noij^s

If more then one at one
mans suit, then for the
first defendant noij^s

And for all the rest of the
defendants xij^d a piece.

for allowance of a recor-
dare, &c. ij^s vj^d

for retorning of it ij^s

for a retraxit before
judgement iiij^d

for search for any old

Action iiij^d

Fees due to the Attorneys.

For a retayning fee by
the Plaintiff xij^d

F 3

for

for drawing of a Declara-
tion xliij^d

for appearing for the de-
fendant xij^d

The ordinary fee upon a
Iusticies liij^s 4^d

The fee upon a replevin
liij^s 4^d

Fees due to the Bayliff.

for every ordinary
summons vi^d

for executing an ordinary
Attachment vi^d

for executing an ordina-
ry distringas vi^d

for summons upon a ju-
stices liij^s vi^d

for

for an Attachment upon
a justices *ij^s vj^d*

for executing of a di-
stringas upon a justices

ij^s vj^d
for every judgement *iiij^d*

for executing of an At-
tachment fugitive *ij^s*

for doing execution up-
on the levari facias, *xij^d*

for the warrant, and *j^d*
in the shilling for all the

mony that is recovered
and levied.

for summoning a Jury to
to try a cause *ij^s vj^d*

To every witness sworn

E. 4. for

for his charges xiij^d
 To a Jury that give a ver-
 dict, or are sworn in a
 cause for their atten-
 dance. iiij^s.

Sect. XVII.
*Certain Rules necessary for
 a County Court.*

ANd now having shewed
 what the Law is as touch-
 ing these Courts, if the Justices
 of the Peace, Lawyers, and o-
 thers of the most sufficient Free-
 holders of the County, shall
 out of their zeal for the good
 of their Country meet together
 and agree upon a Course for the
 better regulating of this Court,
 and usually sit in Court to see
 the

the Laws therein observed, they shall do a good work that may bring much ease to their Countries. And herein we do (under correction) conceive it may much help hereunto to set down and observe some such like rules as these.

First, that such a number of the most sufficient Freeholders do appear every Court, or be content to pay such an Amercement.

Secondly, that they set down what number of attorneys; and who shall practice in the Court.

Thirdly, that these attorneys, and all the officers that do practice, shall agree to, and observe the rules for practice set down, and take no advantage by error; nor remove of suits or other-

otherwise without consent of the Court for any thing done according to these rules: and that they be content with the Fees set down.

Fourthly, that they agree upon a Method of short Declarations, pleading the Generall issues, Amendment of Declarations mistaken before answer, and entring continuances afterwards when omitted by the Clerk of the Court and the like, to make the suits there depending short and cheap. These things will help much. And thus wee have done with the County Court, and now come to the Hundred Court.

CHAP.

CHAP. II.

Of the Hundred Court.

THe Hundred Court is not a Court of Record, but derived out of the County Court and is of the same nature within the Hundred, as the other is within the Shire; in this Court also the Freeholders called free Suitors are the Judges; and the Steward their Clark. And the stile of this Court is thus. The Hundred of W. in the Margent and then.

The Court of A. B. Knight of his Hundred of W. in the County of G. Held the first day of May one thousand six hun-

hundred fifty five before
W.S. Steward there.

Sect. I.

*Of the nature of this Court.
the time and place for
the keeping of it.*

THis Hundred Court is no
Court of Record, but a
kind of Court Barron, and of
the same nature with the Coun-
ty Court; out of which it was
first derived, and set up, for the
ease of the people; and there-
fore the Course and rules of
proceeding in, and all the mat-
ters relating to this Court, are
much like to those in, and re-
lating to that Court. And for
that these things are to be
known. First,

First, that this Court may be kept in any place within the Hundred, and it must be kept in some place within the Hundred.

Secondly, it may be, and is usually kept once every three weeks, upon a day of the week certain; which may (being begun) be adjourned to be ended on another day of the week. And perhaps this day may be changed, or if the Court be kept on another day it may be good enough. But the safe way is to keep it as time out of mind it hath been kept and not to alter it.

Se-

Sec. II.

Of the Iudges of the Court.

THe Iudges of this Court are the Freeholders, called Free-suitors, which we conceive to be all the Freeholders of Land within, and dwelling within the Hundred. But in some Hundreds some certain Freeholders of the Hundred only are the Iudges; & the service seems to be appropriate to their Land only: But we conceive that this doth not exempt the rest of the Freeholders of the Hundred, but that they may be charged. But it is safest to keep the Court by those that are bound to the service by their Land, or to have two of them
pre-

present and if any of these Free-
suits make default they may
be amerced, as in the County
Court. And the amercement af-
feared and extreated, as there;
but that in this case there is
nothing to be done with, or by
the Iustices of the Peace.

Attorneys and Pledges.

Attorneys may be made and
used in this Court as in the ^{Attor-}County Court, and for Pledges, ^{neys.}
this usually is the Course, that Pledges.
where the Plaintiff doth live
out of the Hundred, he is to
find pledges of some sufficient
men within the Hundred for
him; otherwise the defendant
is not bound to answer. But
what remedy to have against
the pledges, If judgement go
against

go against the Plaintiff, we cannot tell you, except an Action of the case lye, or some custome have been there time out of mind to charge them some other way.

Sect. I II.

Of the power and proceedings in this Court in Generall to the end of the suit.

THe power and proceeding of this Court in Generall is much like to the power and proceedings of the County Court, save only in the case of a *Iustices*: for no *Iustices* doth lye to the Iudges of this Court. And that this is for the hundred only,

only, and that is for the whole County. And that in most of these Courts there is no distress used to bring the party to appear but a summons and attachment only. And as to amercements and estreats thereof the rules of the one are all agreeable to the other, save only that the Iustices of the Peace have nothing to do with the estreats of these amercements. And these amercements go to the Lord of the Leet, not to the Steward.

Amercements and Estreats.

For costs of suit both Courts agree in all things. And for removing of suits the Courts are much alike: Save only that to remove a suit of this Court there is another writ called an *Accedas ad Curiam*; which is a writ out of the upper Bench,

Accedas ad curiam.

G

or

or common pleas; directed to the Sheriff commanding him to go to such a Court of some Lord or franchise; as County Court, or court Barron, where a Plaint is sued for taking of Beasts, or as a distresse or some false judgement is supposed to be given in any suit, which hath been in such a Court, which is not a Court of record; and that he do there make record of the same suit in the presence of the Suitors of the same Court, and four Knights of the County; and certify it into the Lord Protectors Court, at the day limited in the writ; and this cannot be had without shewing of some cause; and the causes to remove these suits are when a Freehold is in question there, or some forrain plea is

is pleaded not triable there. Or the like.

And for Officers power and duty in these Courts it is altogether the same with the Officers of the County Court, save only that which doth concern the entring of suits in other mens names, and without their privity.

And also save only in what doth referre to their relation to the Iustices of the Peace of the County, as to their estreats. See for these things Chap. 1. Sect. 12. 13. 14. 15. and for the Fees of this Court the same is to be said as in the former Court; their Fees differ, and are by Law what they have been time out of mind. But some of these Courts wherein the fees are reasonable are as followeth.

The Stevards fees.

For entring every Action

Every order entred

Entring Declaration

If large then more

Entring every plea or an-

swer

Every Efloyne

Every Process

Every continuance

Every nonfuit and de-

traxit

Entring the judgement

Satisfaction acknowledged

ged

Eve-

Every wager of Law and
entry 2^d

Warrants for witnesses
and summoning Juries

4^d
for removing and certi-
fying a cause 6^s 8^d

The Bayliffs fees.

for Summons & entrance
7^d

for executing every Pro-
cess 4^d

Upon Iudgement for e-
very shilling 1^d

for warning of the Jury 1^s

for warning of witnesses
on a warrant 4^d

G 3

for

for every oath 2^d

The Attorneys fees.

for every cause at hearing

1^s

for the Declaration 4^d

for every Court the cause
dependeth after he is re-
tayned 4^d

Other Officers fees.

for the execution of eve-
ry Proceſs 4^d

CHAP. III.

Of a Court Barron.

What a
Court
Barron is.

THe Court Barron is no
Court of record, but a
Court

Court that every Lord of a Mannor, (which anciently were Barrons) hath within his Mannor, as inseparably incident to his Mannor; which Court is said to be double; the one, called the coppingholders Court, for the triall of the titles of their land, for the taking and passing of Estates, Surrenders, Admittances and graunts, and herein the Lord or his Steward is Judge. And the other is called the Freeholders Court, which is only for the tryall of Actions wherein the Freeholders are Iudges. The stile of this Court is after this manner. The manner of Dale in the margent.

The Court Barron of I.
S. Knight of his Mannor
G 4 afore-

aforesaid held the first
day of May 1655. before
W. S. Steward there.

Sect. I.

*Of the beginning and use of
this Court.*

The na-
ture of it,

THis Court was first institu-
ted for the ease of the Te-
nants of the Mannor, and end-
ing of suits there under forty
shillings. That it might be done
at home, as it were at their own
doors. And it is much of the
nature of the two former
Courts.

Sect.

Sec. II.

Of the time and place for the
keeping of this Court and
the Judges therein.

THe Judges here are the
Freeholders, that is, such
Tenants as have ancient estates
of Inheritance in any Lands
held of the Mannor. And of
these there must be two at the
least. And therefore when once
the Mannor is gone, this Court
is gone also; or if the Mannor
continue, and there be but one
Freeholder, the Court is gone;
nor will new Freeholders (as it
seems) made with in the time
of memory serve; and therefore
coppysolders or leaseholders.

That

*It
excepted
In debt
as a
of Law.
of the
with
alike.*

That by the Inheritance of the Lands, nor of any that buy of the Lord a part of his demesnes, these will not be luges of the Court.

The place of keeping of these Courts must be somewhere within the Mannor. And it may not be kept without the Mannor, if it be, all that is done at the Court is void; and *Coram non iudice*.

And yet perhaps where a man hath two or three Mannors together; and time out of mind the Court hath been kept in one Mannor for all the rest of the Mannors, there happily it may be good for all. And the time of keeping of this Court is once every three weeks & not oftener, but more seldome as the Lord of the Mannor shall please.

Sect, III.

Of the Power and proceedings in this Court.

THe power of this Court, where it doth continue, is much as the power of the hundred Court: and the Process, it holdeth plea: under forty shillings also much like unto it.

And as for costs of the suit, the power of the Officers, amercements, tryall, and removall of suits, the course in this Court is much like to the course of the Hundred Courts; save only that here no Tryals are by Iury, but all by wager of Law and proof of witnesses.

For all this therefore see
Chapt.

*being
only by jury*

Chapt. 1. Sect. 12. 13. 14. 15.
 &c. And for the fees of this
 Court the same is to be said as
 in the former Court ; their fees
 differ, and are by Law what they
 have been time out of mind :
 but some of these Courts
 wherein the fees are reasonable
 are as the fees are in the Hun-
 dred Court.

The

The

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sect. 3.

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Amendment chap. 1. sect. 10.

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chap. 3.

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chap. 3.

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F I N I S.

Ex. GmB

1/12/04